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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,730	05/30/2001	David Allen Hays	99999.000309	7131

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12/27/2007

EXAMINER

MILEF, ELDA G

ART UNIT	PAPER NUMBER
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3692

MAIL DATE	DELIVERY MODE
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12/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/866,730

Applicant(s)

HAYS, DAVID ALLEN

Examiner

Elda Milef

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the Appeal Brief filed on 9/11/2007 PROSECUTION IS HEREBY REOPENED.

New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office Action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131, or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Claims 1-20 remain pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claims 1, 7,8, 11, 17: The following claim limitation is confusing:

"the Client to select one of a plurality of options wherein the plurality of options comprises (1) a bidding process where the Client specifies a plurality of bidding participants to bid on the receivables and identifies a single Provider." The limitation that follows recites: "selecting the single Provider identified by the selected option to collect the receivables." Is the bidding based on the sale of the receivables or the fee charged for the collection of the receivables?

Claims 7, 17: The claim limitation "viewing one or more receivable ratings associated with one or more Clients, wherein the receivable ratings indicate a characterization of the receivables based on a combination of type of receivable and a likelihood of collecting the receivable..." is confusing. Is the client or receivable being rated?

Claims 2-6, 9-10, 12-16, and 18-20 are rejected because of their dependency to the rejected claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7, 8, 11-15, 17, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Settle, III (hereinafter Settle, US Patent No. 7,158,944) in view of Keyes et al. (hereinafter Keyes, US Patent No. 6,456,983).

Re claim 1: For examination purposes, the Examiner is interpreting the claim limitation, "enabling the Client to select one of a plurality of options wherein the plurality of options comprises (1) a bidding process where the Client specifies a plurality of bidding participants to bid on the receivables and identifies a single Provider..." to mean enabling the Client to select one of a plurality of options wherein the plurality of options comprises (1) a bidding process where the Client specifies a plurality of bidding participants to bid on the collection of receivables and identifies a single Provider...".

Settle discloses:

subscribing with an online collections services system wherein a Client inputs profile data and wherein the Client is in search of a Provider for collecting receivables on behalf of the Client where the receivables are amounts owed to the Client as a result of extending credit to a third party ("The present invention utilizes a computer-based communications network to provide client users the opportunity to significantly expand their scope of choice as between prospective providers of services ...The present invention will serve to substantively automate, enhance and expedite the underlying processes facilitating the selection of a service provider based on the customized specifications of the client")-see col. 3 lines 1-20, cols. 3-8; col. 11 lines 8-24;

providing information related to the receivables for collection through the online collections services system, where the receivables characterization is available to one or more Providers to enable the one or more Providers to quote competitive rates for collecting the receivables ("The present invention is a method and apparatus for facilitating the selection of legal and legal-related service providers.")-see col. 3, in particular lines 57-59; Fig.4A (Area of Practice-

Collections); col. 11 lines 8-24;

Settle does not specifically disclose wherein the online collections services system characterizes the receivables based on a combination of type of receivable, age of receivable and a likelihood of collecting the receivables. Keyes discloses calculating a score per delinquent account based on the subject delinquent account, the lapse of time from the last payment made on the subject delinquent account, age of account, and probability of the payor being likely to make payments on a delinquent account. The historical delinquent accounts are scored, and thereafter placed into a plurality of groups, with the high and low scores of these groups defining an associated score cluster or range of scores.--see cols. 5-6. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Settle to specifically include scoring a delinquent account based on the subject delinquent account, the lapse of time from the last payment made on the subject delinquent account, age of account, and probability of the payor being likely to make payments on a delinquent account as taught by Keyes in order to make a disposition decision on a group by group basis.

Settle discloses:

enabling the Client to select one of a plurality of options wherein the plurality of options comprises (1) a bidding process where the Client specifies a plurality of bidding participants to bid on the collection of receivables and identifies a single Provider, (2) an optimization process where the Client specifies preference information and is presented with a single Provider determined to be capable of providing an optimal return for the receivables and (3) a manual process where the Client searches for a single Provider based on search criteria; selecting the single Provider identified by the selected option to collect the receivables-see col. 3 line 23 to col. 4 line 8; col. 5 lines 26-56; col. 6 lines 21-59; col. 11 lines 1-24.

Re claims 2,3,4: Settle discloses:

wherein the bidding process enables the Client to submit a set of receivables for auction and specify limitations regarding the bidding process-see col. 11, line 8-25; col. 5 lines 52-56; col. 3 lines 24-67;

wherein the optimization process involves displaying one or more Providers able to provide an optimal return to the Client for selection.-see col. 7 lines 1-20;

wherein the manual process comprises a step of searching

for one or more Providers based on Client defined characteristics wherein the Client initiates contact with the one or more Providers-see col. 3 lines 24-67.

Re claim 5: Settle discloses a step of utilizing Provider data in selecting one or more Providers wherein Provider data comprises Provider type-see col. 6 lines 21-44.

Re claim 7: For examination purposes, the Examiner is interpreting "viewing one or more receivable ratings associated with one or more Clients" to mean viewing one or more ratings associated with a receivable.

Settle discloses:

subscribing with an online collections services system wherein a Provider inputs Provider data wherein the Provider data is used to identify for a Client the Provider's ability to successfully collect receivables where the receivables are amounts owed to the Client as a result of extending credit to a third party-see cols. 3-8, col. 11 lines 3-24;

Although Settle discloses ("The RFP delineates the particular services needed, together with whatever factual particulars, and limiting criteria relating to same that they deem pertinent so as to enable prospective service providers to submit responsive proposals.")-col. 5 lines 52-56 and ("the

subscriber then obtains access to a full text version of the selected FRP 9608), which will typically contain a more detailed listing of the services needed together with any additional specifications as are required or desired by the listing client to be addressed in a responsive proposal to provide such services.")-see col. 11 lines 8-24, Settle does not specifically disclose viewing one or more receivable ratings associated with one or more receivables, wherein the receivable ratings indicate a characterization of the receivables based on a combination of type of receivable, age of receivable and a likelihood of collecting the receivables where the receivables characterization is available to one or more Providers to enable the one or more Providers to quote competitive rates for collecting the receivables. Keyes discloses calculating a score per delinquent account based on the subject delinquent account, the lapse of time from the last payment made on the subject delinquent account, age of account, and probability of the payor being likely to make payments on a delinquent account. The historical delinquent accounts are scored, and thereafter placed into a plurality of groups, with the high and low scores of these groups defining an associated score cluster or range of scores.-see cols. 5-6. It would have been obvious to one

having ordinary skill in the art at the time the invention was made to modify Settle to specifically include scoring a delinquent account based on the subject delinquent account, the lapse of time from the last payment made on the subject delinquent account, age of account, and probability of the payor being likely to make payments on a delinquent account as taught by Keyes in order to make a disposition decision on a group by group basis.

Settle discloses the remaining limitations as in claim 1 above and are rejected using the same art and rationale.

Re claim 8: Settle discloses participating in a bidding process where the Provider submits one or more bids for one or more sets of receivables for auctions. -see col. 11 lines 3-24.

Re claims 11-14, 15, 17, 18: Further a system would have been necessary to perform the method of previously rejected claims 1-4, 5, 7-8 above, and are therefore rejected using the same art and rationale.

5. Claims 6, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Settle in view of Keyes in further view of Bonner (Bonner-Makovsky, Diane. "Selecting and Monitoring

External Collection Agencies". Topics in Health Care Financing.
Gaithersburg: Fall 1993. Vol. 20, Iss.1; pg. 71 9 pgs.)

Re claim 6: Settle and Keyes do not disclose rating one or more selected Providers with respect to Provider performance in servicing receivables. Bonner however, teaches ("The chart may be used as a basis for comparison of the collection agencies...agencies may be compared based upon their total scores resulting from the rating process")-see p. 2 para.8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Settle and Keyes to specifically include rating a provider in order to assess an agency's ability to collect on past-due accounts.

Re claim 16: Further a system would have been necessary to perform the method of previously rejected claim 6 above, and is therefore rejected using the same art and rationale.

6. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Settle and Keyes as applied to claims 7 and 17 above and further in view of Lupien (US Patent No. 6,012,046).

Re claim 9: Settle and Keyes do not disclose further comprising a step of viewing current bids of other participating bidders without revealing the identity of the other

participating bidders. It is well known in the art that anonymous bidding is commonplace as evidenced by Lupien ("anonymously matches buy and sell orders.")-see col. 4, lines 27-29. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Settle and Keyes to include anonymous trading as is well known in the art in order to avoid other participants influencing the price of the item or service for sale.

Re claim 19: Further a system would have been necessary to perform the method of previously rejected claim 9 and is therefore rejected using the same art and rationale.

7. Claims 10, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Settle and Keyes as applied to claims 7 and 17 above and further in view of Ojha (US. Patent No. 6,598,026).

Re claim 10: Settle and Keyes do not disclose dynamically rating one or more clients. Ojha however, shows ("According to a specific embodiment, the metric is simply the number of offers honored less the number reneged. A large positive value representing a 'good' reputation...")-see col. 3, lines 21-47. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Settle and Keyes to

include rating a buyer in order for the seller to be able to avoid dealing with a buyer who may not fulfill his/her obligations to the contract.

Re claim 20: Further a system would have been necessary to perform the method of previously rejected claim 10 and is therefore rejected using the same art and rationale.

Response to Arguments

8. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Glenn, Gwendolyn. "Freddie Mac Offers Incentives To Outstanding Servicers". Real Estate Finance Today. Washington: Mar 8, 1999. Vol. 16, Iss. 9; pg.6. -cited for its reference to ranking loan servicers based on performance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday -Thursday 8:30 am to 4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571)272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elda Milef
Examiner
Art Unit 3692



KAMBIZ ABDI
SUPERVISORY PATENT EXAMINER